REMARKS

Claims 17, 19-25 and 27-32 are pending in the present application. Claim 17 was amended in this response. No new matter was introduced as a result of the amendment. Favorable reconsideration is respectfully requested.

Claims 17, 19-25, 27, and 31-32 were rejected under 35 U.S.C. §102(e) as being anticipated by *Harrison* (US Patent 6,091,709). Claims 28 - 30 were rejected under 35 U.S.C. §103(a) as being unpatentable over Harrison in view of Ise (US Patent No.6,643,258). Applicant respectfully traverses these rejections.

Specifically, the cited art, alone or in combination, fails to teach or suggest the features of a "method for allocating a Quality of Service *for a service, which is provided in at least one packet-oriented communications network*, the method comprising the steps of: requesting, *use of the service by a controller that centrally controls transmissions over the network*; and variably allocating Quality of Service *during call admission* using the controller in response to the requests, wherein the Quality of Service is dependent upon at least one of (1) the service and (2) the requested use of the service, and wherein a high quality of service is awarded when a predetermined transmission capacity in the network exists, and a low quality of service is awarded otherwise" as recited in claim 17.

Under the present amendments, the claim terms have been clarified to recite that the controller (QoS manager) is a central function that acts on the network level. By overseeing the network and the transmission capacity, the controller allocates a QoS to a service request and advises edge devices to mark the related data packets with suitable class of service tags to enable appropriate queuing and scheduling in the network elements. By centrally managing the network services, the use of a service is requested rather than pre-assigning a QoS. The controller can allocate different QoS to the requested service (e.g., a high Quality of Service if the transmission capacity in the communications network is sufficient, and with a low Quality of Service if the transmission capacity in the communications network is insufficient).

In contrast, Harrison clearly focuses on Quality of Service (QoS) control mechanisms <u>in network elements</u>, which are not central entities in the network ("for use e.g. in network routers", col. 2, line 35; see col. 1, lines 64 -67 and col. 2, lines 33 - 34). Harrison teaches a packet prioritizing element that steers incoming packets to forwarding queues appropriate to their

reserved classes of service (to a lowest priority queue if the packets do not have service reservations). If priority queues can accept additional traffic because they are being under-utilized, traffic in lower priority queues is transferred to the under-utilized queues (col. 2, line 63 - col. 3, line 2). All functions of. the QoS manager, the packet prioritizing elements, the prioritized queues and the prioritized forwarding element, must to be implemented "in each enabled router" or network element (col. 2, lines 46 - 49). As a result, requests for services, (e.g., using the RSVP signaling protocol), have to be routed through the network and processed in each network element's QoS manager (col. 2, lines 51 - 53) and all decisions and functions have to be completely executed respectively in all network elements passed.

Also, Harrison teaches the term "service" in the context of a "class of service" for packet based information transport (see col. 2, line 2; col. 7, lines 16-22; col. 9, lines 1-2). In this context, the service will always preloaded with a certain expectation of a predefined QoS or a related priority level (col. 1 lines 27 - 35, and col. 2, lines 33 - 38). Thus, a request for a class of service from an application can be sent to each router along the path expected to be used and can be processed independently by the respective QoS manager in each individual router (col. 7, lines 15 - 26).

In the present claims, "service" refers to different types of communication applications such as data, voice (see claim 19) and video applications, as well as "realtime service" and "non-realtime service" (see pages 1-3 of the present application). As a result, such services do not have a preassigned QoS (hence, the term "variably allocating Quality of Service during call admission"). Also, the controller variably allocates a (once decided) fixed level of QoS, dependent upon things such as the transmission capacity in the network at the time of the request (i.e., call admission).

In contrast, Harrison teaches that an "application ... determines that it needs a class of service at a particular priority level" which are finally "directed specifically to services at priority class n" (see col. 7 lines 15 - 26). Accordingly, there is no teaching that shows that the QoS manager at this point of the process can influence or modify the QoS selected, nor that any condition of the network may lead to a different QoS selection. Also, Harrison describes a router-dependent method to dynamically steer the QoS behavior and the treatment of certain packet flows on the packet level (note, not the network level) depending on certain load

conditions in order to meet a guaranteed priority-classed services with a high degree of certainty (see col. 2, line 63 to col. 3, line 50). Accordingly, Harrison fails to teach all the features of the present claims, and for at least the reasons given above, the rejection is traversed and should be withdrawn.

In light of the above, Applicants respectfully submit that claims 17, 19-25 and 27-32 are both novel and non-obvious over the art of record. Accordingly, Applicants respectfully request that a timely Notice of Allowance be issued in this case. If any additional fees are due in connection with this application as a whole, the Examiner is authorized to deduct said fees from Deposit Account No.: 02-1818. If such a deduction is made, please indicate the attorney docket number (0112740-275) on the account statement.

Respectfully submitted,

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